

Notice of Allowability

Application No.

10/699,810

Examiner

S. Devi, Ph.D.

Applicant(s)

HATTORI ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 07/14/06.
2. ☒ The allowed claim(s) ~~is/are~~ claims 18-21, now renumbered as claims 1-4 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

ATTACHMENT TO NOTICE OF ALLOWABILITY

Applicants' Amendment

1) Acknowledgment is made of Applicants' after-final amendment filed 07/14/06 in response to the final Office Action mailed 04/27/06. With this, Applicants have amended the claims.

Examiner's Amendment

2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization to prepare this Examiner's amendment was provided by Mr. Warren Woessner in a telephonic interview on 21 July 2006.

The instant application has been amended as indicated below:

(a) Claims 9-11, 15 and 17 have been canceled.

(b) The following new claims 18-21 have been added:

--Claim 18 (New). A method of activating non-specific immune functions or fortifying non-specific biodefense mechanisms in a human, or an animal selected from the group consisting of Crustaceae, Pisces, Aves, swine, horse, dog, and cat, comprising administering to the animal or the human an immunostimulating effective daily dose of between 100 to 3000 mg of isolated swine plasma per kg body weight of the human or the animal, wherein the non-specific biodefense mechanisms are selected from phagocytic activity, phenol oxidase activity, antitumor activity, complement activity, lysozyme activity, cytokine production ability, and antibody production ability.

Claim 19 (New). The method according to claim 18, wherein the dose of swine plasma is between 200 to 1200 mg/kg body weight of the human or the animal.

Claim 20 (New). The method of claim 18, wherein the swine plasma is mixed with fine-powdered Crustaceae or crust of Crustacea.

Claim 21 (New). The method according to claim 18, wherein the swine plasma is administered through feed, veterinary pharmaceuticals, beverages, food, health food, or pharmaceuticals.--

Status of Claims

- 3)** Claims 9-11 and 15 have been amended via the amendment filed 07/14/06.
Claims 9-11, 15 and 17 have been canceled via this Examiner's amendment.
New claims 18-21 have been added via this Examiner's amendment.
Claims 18-21 are pending and are under examination.

Objection(s) Moot

- 4)** The objection to claim 15 made in paragraph 11 of the Office Action mailed 12/14/05 and maintained in paragraph 8 of the Office Action mailed 04/27/06 is moot in light of the cancellation of the claim.

Rejection(s) Moot

- 5)** The rejection of claim 15 made in paragraph 8(g) of the Office Action mailed 12/14/05 and maintained in paragraph 20 of the Office Action mailed 04/27/06 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of the cancellation of the claim.
- 6)** The rejection of claim 15 made in paragraph 22 of the Office Action mailed 04/27/06 under 35 U.S.C. § 112, first paragraph, as containing new matter, is moot in light of the cancellation of the claim.
- 7)** The rejection of claims 10 and 11 made in paragraph 23 of the Office Action mailed 04/27/06 under 35 U.S.C. § 112, first paragraph, as containing new matter, is moot in light of the cancellation of the claims.
- 8)** The rejection of claim 9 made in paragraph 24(a) of the Office Action mailed 04/27/06 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of the cancellation of the claim.
- 9)** The rejection of claims 10, 11, 15 and 17 made in paragraph 24(b) of the Office Action mailed 04/27/06 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of the cancellation of the claims.
- 10)** The rejection of claims 9-11 and 17 made in paragraph 26 of the Office Action mailed 04/27/06 under 35 U.S.C. § 102(e)(2) as being anticipated by Langrehr (US 6,156,333, filed

07/10/1995 – Applicants' IDS) as evidenced by Stahly *et al.* (*ISU Swine Research Report*, pages 3-5, 1994), is moot in light of the cancellation of the claims.

11) The rejection of claims 9-11 and 17 made in paragraph 27 of the Office Action mailed 04/27/06 under 35 U.S.C § 102(b) as being anticipated by Suetsuna *et al.* (*Shokuniku ni kansuru Josei Kenkyu Chosa Seika Hokokusho, i.e., Report of the Promotional Research Investigation Results of Edible Means* 10 (1991): 328-334, 1992 - English translated Document of Accession number 930121753 JICST-EPlus – already of record), is moot in light of the cancellation of the claims.

Remarks

12) Claims 18-21, now renumbered as claims 1-4 respectively, are allowed.

The descriptive support for claims 18-21 comes from the original claims 15-17, the first paragraph of page 6, pages 4-6, 7, 27 and 28, and Examples of the instant specification.

The post-filing reference of Markowska-Daniel *et al.* (*Polish J. Vet. Sciences* 6: 275-277, 2003) is hereby made of record, which taught in 2003, that spray-dried animal plasma, soluteinTM when given to piglets with a mean body weight of about 12 kg at a dose of 25 grams/L of water during the first week and a dose of 12.5 grams/L of water during the second week significantly increased the percentages of T-lymphocytes and produced unspecific activation of their immune system. See abstract; Materials and Methods; and Results and Discussion.

13) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted to the Office' Central Rightfax number 571-273-8300 via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week.

14) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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15) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

July, 2006


S. DEVI, PH.D.
PRIMARY EXAMINER